
A BILL FOR AN ACT

RELATING TO BEACH PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's beaches are
2 important and unique components of the array of natural
3 resources that make our islands a special place for our
4 residents and an attractive destination for visitors. Recent
5 studies by researchers at the University of Hawaii indicate that
6 our beaches are disappearing at an alarming rate, with seventy
7 per cent of beaches undergoing chronic erosion, over thirteen
8 miles of beach completely lost to erosion, and inappropriate
9 shoreline development over the past century. Because of the
10 growing demand for the use of beaches, the State needs to
11 reinvest in its beaches as one of its important and valuable
12 natural resources to conserve and restore these important assets
13 by more efficiently distributing limited financial resources.

14 The purpose of this Act is to:

15 (1) Allocate transient accommodations tax revenues to the
16 special land and development fund and beach
17 restoration and conservation special fund to finance
18 restoration and conservation activities;



1 (2) Enable the effective development and implementation
2 plans to slow the degradation of our beaches; and

3 (3) Encourage the restoration of beaches through the
4 coordination of activities involving the counties and
5 the formation of public-private partnerships.

6 SECTION 2. Section 171-19, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) There is created in the department a special fund to
9 be designated as the "special land and development fund".

10 Subject to the Hawaiian Homes Commission Act of 1920, as
11 amended, and section 5(f) of the Admission Act of 1959, all
12 proceeds of sale of public lands, including interest on deferred
13 payments; all moneys collected under section 171-58 for mineral
14 and water rights; all rents from leases, licenses, and permits
15 derived from public lands; all moneys collected from lessees of
16 public lands within industrial parks; all fees, fines, and other
17 administrative charges collected under this chapter and chapter
18 183C; a portion of the highway fuel tax collected under chapter
19 243; all moneys collected by the department for the commercial
20 use of public trails and trail accesses under the jurisdiction
21 of the department; transient accommodations tax revenues



1 collected pursuant to section [~~237D-6.5(b)(2)~~], 237D-6.5(b)(5);
2 and private contributions for the management, maintenance, and
3 development of trails and accesses shall be set apart in the
4 fund and shall be used only as authorized by the legislature for
5 the following purposes:

- 6 (1) To reimburse the general fund of the State for
7 advances made that are required to be reimbursed from
8 the proceeds derived from sales, leases, licenses, or
9 permits of public lands;
- 10 (2) For the planning, development, management, operations,
11 or maintenance of all lands and improvements under the
12 control and management of the board, including but not
13 limited to permanent or temporary staff positions who
14 may be appointed without regard to chapter 76;
- 15 (3) To repurchase any land, including improvements, in the
16 exercise by the board of any right of repurchase
17 specifically reserved in any patent, deed, lease, or
18 other documents or as provided by law;
- 19 (4) For the payment of all appraisal fees; provided that
20 all fees reimbursed to the board shall be deposited in
21 the fund;



- 1 (5) For the payment of publication notices as required
2 under this chapter; provided that all or a portion of
3 the expenditures may be charged to the purchaser or
4 lessee of public lands or any interest therein under
5 rules adopted by the board;
- 6 (6) For the management, maintenance, and development of
7 trails and trail accesses under the jurisdiction of
8 the department;
- 9 (7) For the payment to private land developers who have
10 contracted with the board for development of public
11 lands under section 171-60;
- 12 (8) For the payment of debt service on revenue bonds
13 issued by the department, and the establishment of
14 debt service and other reserves deemed necessary by
15 the board;
- 16 (9) To reimburse the general fund for debt service on
17 general obligation bonds issued to finance
18 departmental projects, where the bonds are designated
19 to be reimbursed from the special land and development
20 fund;



1 (10) For the protection, planning, management, and
2 regulation of water resources under chapter 174C; and

3 (11) For other purposes of this chapter."

4 SECTION 3. Section 171-152, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~H~~] §171-152 [~~H~~] **General powers.** (a) In carrying out its
7 functions under this part, the board may do all things
8 necessary, useful, and convenient in connection with the
9 restoration and conservation of beach lands, subject to all
10 applicable laws, and may provide any necessary assistance to any
11 county or nongovernmental organization in the restoration and
12 conservation of beach lands so long as the public interest is
13 served; provided that for beach restoration and conservation on
14 privately-owned lands, the board shall be required to obtain
15 authorization from affected property owners.

16 (b) The board or the board's designee, subject to this
17 chapter and chapters 183C and 205A, shall maintain and manage
18 beach lands restored and conserved pursuant to this part as well
19 as [a] beach restoration [~~plan~~] and conservation plans described
20 in section 171-153, subject to available funds."



1 SECTION 4. Section 171-153, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[+]§171-153[+]~~ Beach restoration ~~[plan.]~~ and conservation

4 plans. (a) The department shall prepare and, from time to
5 time, revise plans for the restoration and conservation of beach
6 lands of the State. These plans shall ~~[guide]~~:

7 (1) Guide the board in identifying those beach lands ~~[in~~
8 ~~need of restoration which]~~ that have been degraded or
9 are threatened as a result of natural or human actions
10 ~~[and shall designate,]~~ and are in need of restoration
11 and conservation;

12 (2) Designate suitable coastal lands for the purpose of
13 generating revenues to carry out the purposes of this
14 section~~[-]~~;

15 (3) Include, where appropriate, county participation in
16 the development of beach restoration and conservation
17 plans and ongoing maintenance; and

18 (4) Include, where appropriate, the formation of a
19 private-public partnership for the development and
20 execution of beach restoration and conservation plans.



1 (b) In preparing these plans, the department may institute
2 studies pertaining to the need for restoration and conservation
3 of [~~such~~] beach lands and shall consider any plan relating to
4 the restoration and conservation of [~~such~~] beach lands that has
5 been prepared by any federal, state, county, or private agency
6 or entity. The department may also institute other studies as
7 necessary to support the development of beach restoration
8 projects [~~7~~] or beach conservation plans that involve more than
9 the nourishment of beaches with sand, including [~~the~~]:

- 10 (1) The development of socioeconomic profiles [~~7~~
11 environmental];
- 12 (2) Environmental studies pertaining to sand source
13 analysis, and ecological effects of beach
14 restoration [~~7~~ cost-benefit];
- 15 (3) Cost-benefit analysis for project viability [~~7~~ and];
- 16 (4) The effect of sea level rise on beaches; and
- 17 (5) [~~coastal~~] Coastal engineering studies including [~~data~~
18 gathering.] resource assessment, studies of beach
19 dynamics, land use plans, special management area
20 plans, zoning ordinances, and other laws."



1 SECTION 5. Section 171-154, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§171-154[+] Authority to lease coastal lands. The
4 board, subject to this chapter, may lease public coastal lands
5 under the board's jurisdiction for the purpose of generating
6 revenues to be deposited into the beach restoration and
7 conservation [+]special[+] fund. Any terms and conditions
8 imposed by the board on the lessee shall run with the land and
9 shall be binding on the lessee's heirs, successors, and assigns.
10 The board may seek enforcement of such terms and conditions in
11 any court of appropriate jurisdiction."

12 SECTION 6. Section 171-155, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§171-155[+] Development of public coastal lands. On
15 the lands subject to this part, the board may undertake
16 appropriate development to generate revenues for beach
17 restoration [~~which~~] and conservation that is consistent with
18 this chapter and chapters 183C and 205A and other applicable
19 laws. These revenues shall be deposited in the beach
20 restoration and conservation [+]special[+] fund. For purposes
21 of this section, "development" includes:



- 1 (1) Any building or mining operation;
- 2 (2) Any material change in use, intensity of use, or
- 3 appearance of any structure or land, fast or
- 4 submerged; or
- 5 (3) The division of land into two or more parcels."

6 SECTION 7. Section 171-156, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§171-156[+] Beach restoration and conservation special
9 fund. (a) There is established in the state treasury a special
10 fund to be designated as the "beach restoration and conservation
11 special fund" to carry out the purposes of this part. The
12 following moneys shall be deposited into the beach restoration
13 and conservation special fund:

- 14 (1) Proceeds from the lease or development of public
- 15 coastal lands designated pursuant to a beach
- 16 restoration and conservation plan, subject to the
- 17 Hawaiian Homes Commission Act of 1920, as amended, and
- 18 section 5(f) of the Admission Act of 1959;
- 19 (2) Proceeds from the lease of public lands pursuant to
- 20 this part for an existing [~~seawall or revetment;~~]
- 21 shoreline structure;



1 (3) Fines collected for unauthorized shoreline structures
2 on state submerged land or conservation district land;

3 (4) Appropriations made by the legislature for deposit
4 into this fund;

5 (5) Donations [~~and~~], contributions [~~made by~~], and matching
6 funds to carry out beach restoration and conservation
7 plans from private individuals or organizations for
8 deposit into this fund;

9 (6) Fees collected for the processing of applications for
10 coastal and beach erosion control projects; [~~and~~]

11 (7) Transient accommodations tax revenues allocated
12 pursuant to section 237D-6.5(b)(6); and

13 [~~(7)~~] (8) Grants provided by governmental agencies or any
14 other source.

15 (b) The beach restoration and conservation special fund
16 may be used by the department for one or more of the following
17 purposes:

18 (1) Planning, designing, development, or implementation of
19 beach restoration and conservation projects, and all
20 things necessary, useful, and convenient in connection



1 with the restoration and conservation of beach lands,
2 pursuant to this part; and

3 (2) Providing grants to the counties, nongovernmental
4 organizations, and the University of Hawaii for the
5 restoration and conservation of beach lands and for
6 research or engineering studies necessary to support
7 beach restoration and conservation projects, subject
8 to this part."

9 SECTION 8. Section 237D-6.5, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Revenues collected under this chapter shall be
12 distributed as follows, with the excess revenues to be deposited
13 into the general fund:

14 (1) \$26,500,000 shall be allocated to the convention
15 center enterprise special fund established under
16 section 201B-8;

17 (2) \$82,000,000 shall be allocated to the tourism special
18 fund established under section 201B-11; provided that:

19 (A) Beginning on July 1, 2012, and ending on June 30,
20 2015, \$2,000,000 shall be expended from the
21 tourism special fund for development and



1 implementation of initiatives to take advantage
2 of expanded visa programs and increased travel
3 opportunities for international visitors to
4 Hawaii;

5 (B) Of the \$82,000,000 allocated:

6 (i) \$1,000,000 shall be allocated for the
7 operation of a Hawaiian center and the
8 museum of Hawaiian music and dance at the
9 Hawaii convention center; and

10 (ii) 0.5 per cent of the \$82,000,000 shall be
11 transferred to a sub-account in the tourism
12 special fund to provide funding for a safety
13 and security budget, in accordance with the
14 Hawaii tourism strategic plan 2005-2015; and

15 (C) Of the revenues remaining in the tourism special
16 fund after revenues have been deposited as
17 provided in this paragraph and except for any sum
18 authorized by the legislature for expenditure
19 from revenues subject to this paragraph,
20 beginning July 1, 2007, funds shall be deposited
21 into the tourism emergency trust fund,



1 established in section 201B-10, in a manner
2 sufficient to maintain a fund balance of
3 \$5,000,000 in the tourism emergency trust fund;
4 (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000
5 for fiscal year 2015-2016, and \$93,000,000 for each
6 fiscal year thereafter shall be allocated as follows:
7 Kauai county shall receive 14.5 per cent, Hawaii
8 county shall receive 18.6 per cent, city and county of
9 Honolulu shall receive 44.1 per cent, and Maui county
10 shall receive 22.8 per cent; provided that commencing
11 with fiscal year 2018-2019, a sum that represents the
12 difference between a county public employer's annual
13 required contribution for the separate trust fund
14 established under section 87A-42 and the amount of the
15 county public employer's contributions into that trust
16 fund shall be retained by the state director of
17 finance and deposited to the credit of the county
18 public employer's annual required contribution into
19 that trust fund in each fiscal year, as provided in
20 section 87A-42, if the respective county fails to



1 remit the total amount of the county's required annual
 2 contributions, as required under section 87A-43;

3 (4) \$3,000,000 shall be allocated to the Turtle Bay
 4 conservation easement special fund established under
 5 section 201B-8.6 for the payment of debt service on
 6 revenue bonds, the proceeds of which were used to
 7 acquire the conservation easement in Turtle Bay, Oahu,
 8 until the bonds are fully amortized; ~~and]~~

9 (5) ~~[Of the excess revenues deposited into the general~~
 10 ~~fund pursuant to this subsection,~~ \$3,000,000 shall be
 11 allocated ~~[subject to the mutual agreement]~~ and
 12 deposited into the special land and development fund
 13 established under section 171-19 of the ~~[board]~~
 14 department of land and natural resources ~~[and the~~
 15 ~~board of directors of the Hawaii tourism authority];~~
 16 provided that the allocation shall be expended in
 17 accordance with the Hawaii tourism authority strategic
 18 plan for:

19 (A) The protection, preservation, maintenance, and
 20 enhancement of natural resources, including
 21 beaches, important to the visitor industry;



1 (B) Planning, construction, and repair of facilities;
2 and

3 (C) Operation and maintenance costs of public lands,
4 including beaches, connected with enhancing the
5 visitor experience [-]; and

6 (6) Beginning July 1, 2015, \$ _____ shall be annually
7 allocated to the beach restoration and conservation
8 special fund established under section 171-156 until a
9 fund balance of \$ _____ is achieved; thereafter,
10 funds shall be allocated to the beach restoration and
11 conservation special fund in a manner sufficient to
12 maintain a fund balance of \$ _____ .

13 All transient accommodations taxes shall be paid into the
14 state treasury each month within ten days after collection and
15 shall be kept by the state director of finance in special
16 accounts for distribution as provided in this subsection.

17 As used in this subsection, "fiscal year" means the twelve-
18 month period beginning on July 1 of a calendar year and ending
19 on June 30 of the following calendar year."

20 SECTION 9. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Transient Accommodations Tax; Special Land and Development Fund;
Beach Restoration and Conservation Plan; Beach Restoration and
Conservation Special Fund

Description:

Expands the scope of the department of land and natural
resources' beach restoration plans and beach restoration special
fund to include beach conservation. Allocates funds from the
transient accommodations tax for beach restoration and
conservation. (SD1)

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not legislation or evidence of legislative intent.*

